

RESOLUTION NO. 3596

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION DETERMINING TO PROVIDE FOR A SPECIAL TAX IF NECESSARY TO PAY LEASE RENTALS IN CONNECTION WITH THE LEASE DATED AS OF APRIL 1, 2024, BETWEEN THE SOUTH BEND REDEVELOPMENT COMMISSION AND THE SOUTH BEND REDEVELOPMENT AUTHORITY RELATING TO THE FOUR WINDS FIELD AT COVELESKI STADIUM PROJECT AND OTHER RELATED MATTERS

WHEREAS, the South Bend Redevelopment Commission (the “Commission”), the governing body of the South Bend Department of Redevelopment and the Redevelopment District of the City of South Bend, Indiana (the “District”), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the “Act”); and

WHEREAS, the City of South Bend, Indiana (the “City”) has determined to undertake certain improvements to the Four Winds Field at Coveleski Stadium (the “Stadium”) consisting of enhancements to the Stadium including, without limitation, modernizing the existing stadium infrastructure, adding a full second level above the existing facility, renovating the primary seating areas and suites, adding a new 20,000 square foot, four-story club and event space building, and a new playground and splash pad with additional improvements including, without limitation, additional restrooms, additional circulation space, updated retail and concessions areas, a new improved entrance, and all projects related to the foregoing projects (collectively, the “Project”) for the purpose of increasing the Stadium’s capacity and providing for increased future success; and

WHEREAS, the South Bend Redevelopment Authority (the “Authority”) has been created pursuant to IC 36-7-14.5 as a separate body, corporate and politic, and as an instrumentality of the City, to finance local public improvements for lease to the Commission; and

WHEREAS, the Authority intends to lease the Stadium (the “Leased Premises”) to the Commission pursuant to a lease dated as of April 1, 2024 (the “Lease”), which form of Lease was heretofore approved by this Commission and the Authority in order to provide for the financing of the Project; and

WHEREAS, the Authority and the Commission have given consideration to (i) financing the cost of funding a portion of the cost of the Project; (ii) funding a debt service reserve fund, if necessary in connection with the issuance of the Bonds (defined herein); and (iii) paying costs incurred in connection with the issuance of the Bonds; and

WHEREAS, the Authority intends to issue bonds pursuant to 1C 36-7-14.5-19 and a trust indenture (the “Trust Indenture”) between the Authority and a bond trustee to be selected by the Authority (the “Bonds”), the proceeds of which are to be used to finance all or any portion of the costs of (i) a portion of the Project; (ii) funding a debt service reserve fund, if necessary, in connection with the issuance of the Bonds; and (iii) issuing the Bonds; and

WHEREAS, the Commission intends to pay rent to the Authority pursuant to the terms of the Lease, at a rate not to exceed Four Million Four Hundred Seventy-six Thousand Dollars (\$4,476,000) per year, in semiannual installments, with a term not longer than twenty (20) years beginning on the date the Authority acquires an interest in the Leased Premises, and ending on the day prior to a date not later than twenty (20) years after such date of acquisition by the Authority (the “Lease Rental Payments”); and

WHEREAS, the Commission anticipates that sufficient funds will be available to the Commission to make the required Lease Rental Payments with such funds being derived from the Professional Sports and Convention Development Area tax revenues (the “PSCDA Revenues”) to be received by the City of South Bend, Indiana (the “City”) pursuant to Indiana Code 36-7-31.3 and made available to the Commission for the purpose of making the Lease Rental Payments pursuant to a resolution adopted on April 8, 2024 by the Common Council of the City; and

WHEREAS, because the Commission anticipates that sufficient PSCDA Revenues will be available to make the Lease Rental Payments, the Project does not constitute a “controlled project” as such term is defined by Indiana Code 6-1.1-20-1.1; and

WHEREAS, the Commission desires to provide for the levy of a special tax pursuant to Section 27 of the Act (the “Special Tax”) in the event it becomes necessary to levy the Special Tax for the payment of the Lease Rental Payments owed by the Commission pursuant to the Lease and to authorize the establishment of certain funds and accounts in connection thereto;

NOW, THEREFORE, BE IT RESOLVED, BY THIS SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby determines that, because the PSCDA Revenues are expected to be sufficient to pay the Lease Rental Payments, the Project does not constitute a “controlled project” as such term is defined by Indiana Code 6-1.1-20-1.1.

SECTION 2. The Commission agrees that it shall levy in each calendar year pursuant to Section 27 of the Act during the term of the Lease the Special Tax upon all of the taxable property in the District in a total amount necessary, together with all other funds (other than special taxes), including, without limitation, the PSCDA Revenues then on deposit in the Lease Fund (as defined herein) as of August 1 of such calendar year, to pay all Lease Rental Payments payable in the 12-month period beginning on July 1 of the year following such calendar year pursuant to Section 4 of the Lease. The Controller of the City (the “Controller”) is hereby authorized to create a fund (the “Lease Fund”) for the purpose of depositing such taxes into and such taxes and any other funds deposited in the Lease Fund shall be irrevocably pledged for the purposes set forth in this Resolution, such pledge being effective as set forth in IC 5-1-14-4 without the necessity of filing or recording this resolution or any instrument except in the records of the Commission. In addition to any amounts then on deposit in the Lease Fund, if any, the Commission may also take into account when determining whether it is necessary to levy the Special Tax as described herein, any cash and other investments (but not a surety) available in the debt service reserve fund which may be established under the Trust Indenture to provide additional security for the Bonds, all based upon the advice and recommendation of the Controller. Notwithstanding the foregoing, the Commission expects that the PSCDA Revenues will be sufficient to pay the Lease Rental

Payments when due without the need for the Special Tax. With respect to the Lease Rental Payment that will be due under the Lease on January 15, 2025, the Commission represents that it will have set aside sufficient PSCDA Revenues into the Lease Fund at the time of the closing on the Bonds to pay such Lease Rental Payment when due on January 15, 2025.

SECTION 3. The Commission hereby authorizes and directs the President and the Secretary of the Commission to take any and all necessary actions and execute any and all necessary documents to carry out the purpose of this Resolution. This Resolution shall be in full force and effect after its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on April 11, 2024, in Room 1308, County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana, 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Vivian G. Sallie, Secretary